

### **REMARKS**

Reconsideration of the rejection set forth in the Office Action Summary and Interview Summary is respectfully requested. Currently, claims 1-13 are pending in this application.

In the Interview Summary the Examiner indicated that the proposed claim amendments dated November 6, 2008 had not been entered. Accordingly, applicants are re-submitting the proposed claim amendments and respectfully request the Examiner to enter these claim amendments. For the reasons set forth below, applicants respectfully submit that the amended claims are patentable over the cited art and respectfully request that the rejection be withdrawn.

#### **Rejection of claims under 35 USC 103**

Claims 1 and 12 were rejected under 35 USC 103 as unpatentable over Barts et al. (U.S. Patent Application Publication No. 2004/0039597) in view of DiRienzo (U.S. Patent No. 6,006,191). This rejection is respectfully traversed in view of the amendments to the claims and the following arguments.

Independent claim 1 recites a method of monitoring the transmission of medical images on a data communications network, the method comprising the steps of monitoring a transaction request, said transaction relating to the delivery of medical images through a dynamically determined route on the data communications network, and notifying an entity associated with the transaction request as to the status of the transaction request.

Independent claim 12 recites a medical image transport service configured to monitor the transmission of medical images on a data communications network, comprising a data management service, said data management service being configured to monitor the transmission of medical images through a dynamically determined route on the data communications network, and a client interface configured to provide notifications to a client related to the status of the transmissions of medical images on the network.

Barts does not teach or suggest a network of this nature. In Barts, the network is a delivery network of manufactured items. Thus, the network in Barts is not a data communications network and does not deliver medical images through a dynamically determined route on the network and monitor the transmission of the images. Rather, the network in Barts is simply used to deliver manufactured items from a manufacturing facility to a destination, and monitor the manufacturing of the manufactured items.

The Examiner contended that the network in Barts operate in the same manner as the present invention, citing paragraphs 0042, 0057 and 0063 of Barts. However, according to the cited paragraphs, Barts simply discloses a system and method for facilitating delivery of manufactured items from a manufacturing facility to customers via a delivery network, where information stored and accessed from a database can be used to monitor activity at network facility points of a vehicle (manufactured item) delivery network (Barts, 0042), performance of carriers in delivering vehicles to predetermined destinations within preset time limits (Barts, 0057), and determining status of every vehicle at all times (Barts, 0063). Accordingly, Barts fails to support the rejection.

The Examiner indicated that Barts fails to explicitly teach disclosing of medical images on a network. Accordingly, the Examiner cited DiRienzo as teaching transmitting, storing, retransmitting and receiving a plurality of electronic medical images, diagnostic readings for downtime (DiRienzo, abstract). After review, it appears that DiRienzo fails to make up the deficiencies noted above in connection with Barts. Stated differently, even if the Examiner is correct and DiRienzo teaches transmitting, storing, retransmitting and receiving a plurality of electronic medical images, and diagnostic readings for downtime, the combination of Barts and DiRienzo would not teach or suggest a data communications network used to deliver medical images through a dynamically determined route on the network and monitor the transmission of the images. Accordingly, applicants respectfully submit that claims 1 and 12 and those claims dependent thereon are patentable over the combination of Barts and DiRienzo .

#### Non-analogous Art

Barts is non-analogous art. For a reference to be cited in a rejection under 35 USC 103, the reference must either be from the field of the invention or reasonably pertinent to the problem addressed by the invention. See MPEP 2141.01(a) (“a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole.”).

In this instance, Barts is related to facilitating delivery of vehicles (e.g. automobiles) from manufacturing facilities to dealerships (see Abstract). A person looking to invent a system to handle the transmission of medical images on a communication network would not be motivated

to look at how vehicles are manufactured or how they are tracked during the manufacturing process. Accordingly, applicants respectfully submit that the subject matter of Barts would not logically have commended itself to the inventor's attention. Thus, applicants respectfully submit that Barts is non-analogous art, particularly in view of the amendments which clarify that applicants are focused on the transmission of medical images on a communication network, not on manufacturing techniques.

### Conclusion

In view of these amendments and remarks, applicants respectfully submit that the claims pending in this application are in condition for allowance and respectfully request an action to that effect. If the Examiner believes a telephone interview would further prosecution of this application, the Examiner is respectfully requested to contact the undersigned at the number indicated below.

Respectfully Submitted

Dated: February 23, 2009

Anderson Gorecki & Manaras LLP  
P.O. Box 553  
Carlisle, MA 01741  
Tel: (978) 264-4001  
Fax: (978) 264-9119  
john@gorecki.us

/John C. Gorecki/  
John C. Gorecki, Reg. No. 38,471